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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

UNITED STATES OF AMERICA )

No. C 08-3346 MEJ

Plaintiff, )

**JOINT CASE MANAGEMENT  
STATEMENT**

v. )

ORDER CONTINUING CMC

1. APPROXIMATELY \$17,872 IN )  
UNITED STATES CURRENCY, et.al. )

CMC Date: October 16, 2008  
Time: 10:00 a.m.

Defendants. )

Courtroom B, 15<sup>th</sup> Floor

John Denn, )

Claimant )

Plaintiff, United States of America and claimant John Denn,<sup>1</sup> respectfully submit this  
Joint Case Management Statement.

**1. Jurisdiction and Service**

<sup>1</sup>John Denn passed away on August 1, 2008. The United States includes his name on this pleading because the status of his claims and those of his girlfriend/wife and/or estate are unclear. The United States does not waive any challenges to the claim and answered filed on Mr. Denn's behalf or to the standing of the estate or Ms. Lehn aka Denn to pursue the claim.

1 This Court has jurisdiction pursuant to Title 28, United States Code, Sections 1345 and  
2 1355 and Title 21, United States Code, Section 881(a)(6). Plaintiff contends that it has served  
3 notice of this action on all persons who may have an interest in the defendant assets, including  
4 the following: John Denn, Christina Lehn, by and through their attorney, Jesse J. Garcia, Esq.

5 On August 26, 2008, Jesse Gracia, Esq. filed a claim and answer, purportedly on behalf of  
6 John Denn. However, John Denn passed away on August 1, 2008, and the claim was not verified  
7 by Mr. Denn<sup>2</sup>, Ms. Lehn or an executor for the estate.

8 To date, no other claims have been filed in this action.

## 9 **2. Facts**

10 This is a forfeiture action. The government contends that there is sufficient evidence to  
11 believe that the defendant assets are subject to forfeiture, pursuant to Title 21, United States  
12 Code, § 881(a)(6), as money furnished or intended to be furnished in exchange for a controlled  
13 substance, constitute proceeds from such an exchange, traceable to such an exchange or used or  
14 intended to be used to facilitate a violation of Subchapter I, Chapter 13 of title 21 United States  
15 Code.

16 Claimant alleges that the defendant assets do not represent proceeds or money used to  
17 facilitate drug trafficking.

18 The facts regarding the seizure of the defendant assets (funds, vehicles and motorcycles)  
19 are set forth in the civil complaint at ¶¶ 7-25, and incorporated herein by reference.

## 20 **3. Principal Factual and Legal Issues**

21 The principal factual and legal issues in dispute are: 1) whether plaintiff can establish by  
22 a preponderance of the evidence that the defendant assets are the proceeds of drug trafficking  
23 and/or purchased with drug proceeds and thus forfeitable under Title 21, United States Code,  
24 Section 881(a)(6) and 2) whether claimant Christina Lehn or the Estate of John Denn can  
25 establish by a preponderance of the evidence that she is the innocent owner of the defendant

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26  
27 <sup>2</sup>Although Mr. Denn had filed a verified claim in the administrative forfeiture proceeding,  
28 a separate claim and answer must be filed in the judicial forfeiture action to obtain standing to  
challenge the judicial forfeiture. Supplemental Rules of Admiralty or Maritime Claims and Asset  
Forfeiture Actions, Rule G(5)(a)(b).

vehicles and funds

The United States also will challenge Christina Lehn's standing to pursue any claim for the defendant properties.

#### **5. Anticipated Motions**

All parties may move for summary judgment at the close of discovery.

#### **6. Relief/Damages**

Plaintiff seeks a judgment of forfeiture of the defendant assets. This is not a damages case. Claimant seek the return of the defendant assets.

#### **7. Settlement**

At this juncture, matters are far too undeveloped to ascertain the possibility of settlement.

#### **8. Discovery**

This is an *in rem* forfeiture case and is exempt from initial disclosures pursuant to Federal Rule of Civil Procedure 26 (a)(1)(B)(ii). The parties have not engaged in any significant discovery of the case. The parties suggest another case management conference would be appropriate in four months.

#### **9. Alternative Means of Disposition**

Plaintiff does not request reference to arbitration.

#### **10. Pretrial/Trial Issues**

The parties have not yet discussed any trial issues.

#### **11. Class Action**

This is not a class action.

#### **12. Related Case**

There are no related cases.

#### **13. Other Matters –**

As noted above, the status of the claim in this case has been affected by the death of John Denn, the individual from whom the assets were seized. The identity of the executor of Mr. Denn's estate has not been determined. Both parties suggests that the Court consider continuing the case management conference for approximately four months to allow the Estate of John Denn

1 and/or Ms. Lehn to evaluate their position in the case. The parties propose January 22, 2008, for  
2 the next Case Management Conference or at any time convenient for the Court.

3 DATED: October 7 , 2008

4 \_\_\_\_\_  
/S/

5 SUSAN B. GRAY  
6 Assistant United States Attorney

7 DATED: October 7, 2008

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9 JESSE GARCIA  
10 AUSTIN THOMPSON  
11 Attorneys for Claimant John Denn

12  
13 GOOD CAUSE APPEARING: the Case Management Conference currently scheduled for  
14 October 16, 2008, at 10:00 a.m. is hereby continued to January 22, 2009, at 10:00 a.m.

15 IT IS SO ORDERED.

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17 Dated: October 9, 2008

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19 MARIA ELLEN JAMES  
20 United States District Judge  
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